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ALBERT HALPRIN
RILEY K. TEMPLE
STEPHEN L. GOODMAN

WILLIAM F. MAHER, JR.
JOEL BERNSTEIN
RICHARD T. WHITE, JR.

July 29, 1999

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
455 12th Street, SW
TW-A325
Washington, D.C. 20554

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

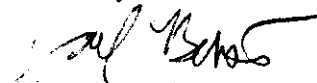
Re: CC Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

Dear Ms. Salas:

The Yellow Pages Publishers Association sent the attached letters today to the Members of the Commission.

Sincerely,


Joel Bernstein
Counsel for YPPA

Attachments

cc: William Kehoe

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July 29, 1999

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Room 8-B201
Washington, D.C. 20554

Re: CC Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

Dear Chairman Kennard:

The Yellow Pages Publishers Association (YPPA) understands that the Commission may issue its report and order on the subscriber listing information (SLI) provisions of CC Docket 96-115. YPPA is concerned about some of the decisions we understand the Commission may make in this proceeding.

YPPA has been told that the Commission is likely to decide that prices for SLI at four cents a listing for an initial load and six a listing for updates are presumptively reasonable. These prices are not based on the statutory requirements of the provision, nor on the realities of the directory publishing or local exchange business.

YPPA believes that setting any kind of specific presumptive price target completely ignores the business realities of the directory publishing business and the telephone business. There are many different products directory publishers use, from direct feeds that are essentially gibberish and useable only after being processed and refined, to nearly camera ready finished products. The Commission appears to treat these disparate products as essentially the same. The same differences that exist with initial products also exist with updates. Update products also vary by frequency. To assume that a daily update and a

monthly update are roughly the same is faulty.

YPPA continues to believe that the best method for determining reasonable pricing is through the complaint process and not through a rulemaking process. A rulemaking, by its nature, is a one-size-fits-all. While YPPA understands the Commission's desire for simplicity and predictability, the business does not lend itself to such a solution. Furthermore, setting a presumptively reasonable price of four cents for initial listings and six cents for updates will result in a flood of complaints. Today, very few telephone companies provide listings at four cents or below, and even less (if any) provide updates at six cents. It is YPPA's understanding that several companies have provided the Commission with cost data, and that the cost (not including profit or value) exceeds the four and six cent levels. To set the presumptive price so low is to invite a wave of complaints that will flood the Commission, and, according to cost figures already on the record, will not, in many cases, change the prices charged for SLI.

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While YPPA supports the Commission's rejection of using incremental cost as the sole basis for reasonableness, YPPA believes the Commission's reasonableness factors fall short of the Congressional intention in this matter. YPPA understands that the Commission will adopt a cost method that approximates a fully-distributed cost model plus profit. YPPA believes that value must also be a factor.

The statute gives the Commission flexibility to determine whether subscriber listing rates are reasonable. Value of the information, however, was specifically enumerated by Congress as a factor in determining reasonableness. The House Commerce Committee Report makes it clear that the listing information has some market value, and telephone companies are permitted to charge for listings based on that value. The report states that the subscriber list information provisions ensure "that the telephone companies that gather and maintain such data are compensated for the value of the listings." H.R. Rpt. No. 104-204, Part I, 104th Cong., 1st Sess. at p. 89 (1995) (emphasis added). The Commission appears intent on ignoring this portion of the legislative history.

YPPA applauds the Commission for several decisions we understand are in the draft order. YPPA has been informed that the Common Carrier Bureau staff has recommended that incumbent local exchange carriers (ILECs) should not be required to serve as a clearinghouse for competitive local exchange carriers (CLECs). YPPA strongly believes that the recommendation is correct. It is clear that the statute requires all carriers to provide SLI

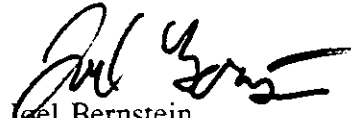
The Honorable William Kennard
July 29, 1999
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YPPA understands that the draft order explicitly does not extend regulation to the directory publishing industry. YPPA agrees with this position. Directory publishing is a competitive business. YPPA continues to believe that the Commission should not regulate directory publishers or the directory publishing business.

YPPA thanks the Commission for its attention to this matter.

Sincerely,



Joel Bernstein
Counsel for YPPA

cc: Dorothy Atwood

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July 29, 1999

The Honorable Susan Ness
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-B115
Washington, D.C. 20554

Re: CC Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

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The Honorable Susan Ness

July 29, 1999

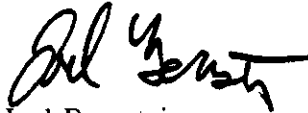
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Sincerely,

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Joel Bernstein
Counsel for YPPA

cc: Linda Kinney

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July 29, 1999

The Honorable Michael Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-A204
Washington, D.C. 20554

Re: CC Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

Dear Commissioner Powell:

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YPPA applauds the Commission for several decisions we understand are in the draft order. YPPA has been informed that the Common Carrier Bureau staff has recommended that incumbent local exchange carriers (ILECs) should not be required to serve as a clearinghouse for competitive local exchange carriers (CLECs). YPPA strongly believes that

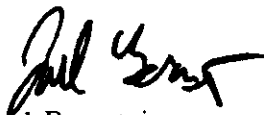
The Honorable Michael Powell
July 29, 1999
Page 3

the recommendation is correct. It is clear that the statute requires all carriers to provide SLI to independent directory publishers, whether the carrier is an ILEC or a CLEC. It is also clear that the statute requires a carrier to provide only its own SLI.

YPPA understands that the draft order explicitly does not extend regulation to the directory publishing industry. YPPA agrees with this position. Directory publishing is a competitive business. YPPA continues to believe that the Commission should not regulate directory publishers or the directory publishing business.

YPPA thanks the Commission for its attention to this matter.

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Joel Bernstein
Counsel for YPPA

cc: Kyle Dixon, Esq.

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July 29, 1999

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-C302
Washington, D.C. 20554

Re: CC Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

Dear Commissioner Tristani:

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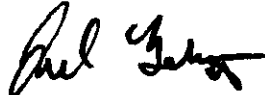
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Sincerely,

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Joel Bernstein
Counsel for YPPA

cc: Sarah Whitesell

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July 29, 1999

The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-A303
Washington, D.C. 20554

Re: CC Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

Dear Commissioner Furchtgott-Roth:

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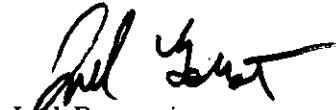
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